

Update: Domestic Violence Benchbook (2d ed)

CHAPTER 5

Evidence in Criminal Domestic Violence Cases

5.12 Evidence of Other Crimes, Wrongs, or Acts Under MRE 404(b)

C. Other Acts Evidence in Family Violence Cases

Insert the following case summary in Section 5.12(C) at the top of p 193 before the *Watson* case:

: *People v Knox*, ___ Mich App ___ (2003):

The defendant was convicted by a jury of second-degree murder and first-degree child abuse in the death of his four-month old son. The prosecutor argued that the victim sustained the injuries that led to his death while in the defendant's care. The defendant argued that the victim sustained the injuries while in the victim's mother's care. At trial, during the case-in-chief, the prosecutor introduced evidence of "other acts" of the victim's mother, including evidence of her assets as a mother, her love for her children and her knowledge of child rearing. The defendant did not object to the admission of this evidence. On appeal, the defendant objected to the evidence as improper character evidence. The Court of Appeals held:

"[T]he rules of evidence do not provide that the prosecution may preempt a defense that someone other than defendant committed the crime by arguing that the person the defense blames was 'too good' to have committed the crime. Additionally, the evidence of [the victim's mother's] good character was improper under MRE 404(b) because it did not serve one of the noncharacter purposes articulated in that rule. This evidence was used to demonstrate that [the victim's mother] acted in conformity with her good character on the night of the incident, in contrast to [the defendant's] alleged bad character, and thus that [defendant's] defense should not be believed. Therefore, we conclude, even in light of *Hine*, that [the

defendant] has demonstrated that it was plain error for the trial court to admit the evidence that [the victim's mother] was a good, loving parent who could not have committed the crime." *Knox*, *supra* at ____.

Although admission of the evidence was plain error, the Court determined that the error in admitting this evidence did not affect the outcome of the trial and defendant was not entitled to relief. *Id.* at ____.